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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,947	02/21/2002	Deborah Tucker		6518

7590 01/04/2005

JOHN MAIER, III
666 AARON COURT
KINGSTON, NY 12401

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliance With 37 CFR 1.192(c)	Applicati n No. 10/080,947	Applicant(s) TUCKER, DEBORAH	
	Examiner Charles Goodman	Art Unit 3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 12 October 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet



CHARLES GOODMAN
PRIMARY EXAMINER

Continuation of 9. Other (including any explanation in support of the above items): Item #2 - The "amended" or not amended status of the claims is not required under this heading. Simply point out the claims being appealed (pending) and which claims are cancelled
Item #3 - The after final amendment must be identified by date and the propriety of entry of the amendment should be reserved for the Arguments section of the appeal.

Item #6 - Although Appellant includes a statement that the claims do not stand or fall together, it is noted that in the body of the Arguments, Appellant merely points out that claims 2-4 and 8-16 are patentable for the same reasons as claim 1. That is not an argument of separate patentability of said claims. If they are separately patentable, then it must be due to the limitations of those claims rather than just claim 1. If Appellant's basis for this line of argument is hinged upon claim 1 only, then the correct statement is that all the claims stand or fall together with claim 1.

It is noted that the current Appeal Brief is substantially the same as previously submitted. Please note again that "amended" or not amended need not be under this heading. It is sufficient to point out that claims 1-4 and 8-17 are pending and the individual status thereof will be clear in the prosecution record. Moreover, any mention of other previously submitted amendments besides the amendment filed after final is not appropriate under the "Status of Amendments" heading. Moreover, under the "Issues" heading, Appellant's issue #2 is not appropriate under this heading. That is not germane to the "Issues" and should be relegated to the body of the "Arguments" section...